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UNCLAS MANILA 005507

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SENSITIVE

STATE FOR EAP, EAP/MTS, EAP/MLS, AND L/EAP  
USPACOM ALSO FOR FPA HUSO  
SECDEF/OSD/ISA/AP FOR ALLEN

E.O. 12958: N/A

TAGS: [PREL](#) [MARR](#) [ASEC](#) [PHUM](#) [PGOV](#) [KCRM](#) [CASC](#) [RP](#)

SUBJECT: FIVE OF SIX MARINES SUBMIT COUNTER-AFFIDAVITS  
DURING SECOND PRELIMINARY HEARING

REF: A. MANILA 5459

- [1](#)B. STATE 212917
- [1](#)C. MANILA 5371
- [1](#)D. MANILA 5348
- [1](#)E. MANILA 5317
- [1](#)F. MANILA 5300
- [1](#)G. MANILA 5231
- [1](#)H. MANILA 5138
- [1](#)I. COMPACFLT PEARL HARBOR HI 030112Z NOV 05
- [1](#)J. OPREP-3/CTF 76.4/022000Z NOV 05 (NOTAL)

[1](#)1. (SBU) Summary. Five of the six Marines accused of involvement in the alleged rape of a Filipina submitted counter-affidavits in the second preliminary hearing on November 29. The attorney for the sixth, LCPL Smith, said his client wanted to know the nature and consequences of the complaint before making a submission. The Naval Criminal Investigative Service (NCIS) investigation continues separately. Charge reiterated to the Department of Foreign Affairs that the USG would not accede to the request to provide copies of the Marines' identity cards. End Summary.

[1](#)2. (SBU) The November 29 second preliminary hearing before the Olongapo City Prosecutor investigating the alleged rape involving six US Marines of a Filipina was marked by legal sparring, but, like the first hearing (ref A), was largely uneventful. None of the six respondents, nor the complainant, was physically present. Five of the six Marines filed counter-affidavits, while the attorney for the sixth, LCPL Smith, said his client wanted to know the nature and consequences of the complaint before submitting a counter-affidavit. ACS Chief and USMC attorney observed the hearing.

[1](#)3. (SBU) Prosecutor Prudencio Jalandoni denied the request by the complainant's attorney for DNA samples from the six Marines, saying that the timing was "inappropriate." Jalandoni instructed the attorney of the driver of the Marines' vehicle to present his counter-affidavit by December

[1](#)9. (Note: The driver has been named as a respondent in the case. End note.) He also allowed both sides an additional five days beyond December 9 to submit any clarifying memoranda.

[1](#)4. (SBU) The lead attorney for the complainant, Katrina Legarda, compared the poor origins of her client to the bank of lawyers representing the respondents. Legarda said her client would not appear in court until she "takes the witness stand."

[1](#)5. (SBU) A small crowd of leftists again demonstrated outside the Prosecutor's office, bearing anti-American placards with slogans like "US Troops Out Now." However, police had the situation well in hand, and there were no confrontations.

[1](#)6. (SBU) The NCIS investigation is continuing separately. NCIS agents will seek to obtain access this week to the victim through her attorney, as well as to obtain statements from other material witnesses in the case.

[1](#)7. (SBU) Charge d'Affaires Jones informed Assistant Secretary of Foreign Affairs for the Americas Abadilla that

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the USG believed release of the Marine's identity cards was not required under the Visiting Forces Agreement, and, therefore, would deny the GRP's request for copies.

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<http://www.state.sgov.gov/p/eap/manila/index.cfm>  
Jones